

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,))
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES))
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

TYSON FOODS, INC., et al,)

Defendants.)

4:05-CV-00329-TCK-SAJ

THE DEPOSITION OF JIM LANCE
PIGEON, produced as a witness on behalf of the
Plaintiff in the above styled and numbered cause,
taken on the 25th day of May, 2007, in the City of
West Siloam Springs, County of Delaware, State of
Oklahoma, before me, Lisa A. Steinmeyer, a Certified
Shorthand Reporter, duly certified under and by
virtue of the laws of the State of Oklahoma.

1 of '04.

2 Q Did you immediately then begin producing
3 poultry products for Tyson on or about February or
4 March of '04?

5 A Yes, I did.

09:17AM

6 Q And have you continuously worked then for
7 Tyson -- have you continuously grown chickens for
8 Tyson since that time?

9 A Yes, I have.

10 Q Let me hand you what's been marked as Exhibit
11 No. 1 and this I'll represent to you is a copy of
12 the subpoena with the attachment that was provided
13 to your counsel. Have you seen this document
14 before?

09:17AM

15 A Yes, I have.

09:17AM

16 Q I'm going to refer you to the exhibit that's
17 attached to that document and I'd ask you to tell me
18 if there's any category by the number listed there
19 that would indicate documents you either did not
20 find or did not produce in your document production
21 pursuant to the subpoena.

09:18AM

22 A Okay. I'm sorry. Could you repeat your
23 question?

24 Q What I'm trying to determine is what documents
25 you didn't have or you didn't produce and then I'm

09:22AM

1 going to ask you questions such as have all other
2 documents then been produced. So I figured it would
3 be easier to go to the ones you know you didn't
4 produce or couldn't find and we can talk about
5 those.

09:22AM

6 A I apologize. It took me some time to skim
7 over that.

8 Q That's quite all right. I want you to be
9 accurate and complete, so do what you need to do.
10 Do you know which ones you did not produce or could
11 not find?

09:22AM

12 A Item 13 I did not produce.

13 Q Federal and state tax returns for the past
14 five years?

15 A Yes.

09:22AM

16 Q All right.

17 A Item 14 I don't remember in reviewing my
18 documents finding a grower contract from when I was
19 with Peterson. It may have been in those documents.

20 Q I'll represent to you I don't remember seeing
21 one from Peterson either in the ones produced.

09:23AM

22 A But I will state that all documents that I
23 have were produced in relation to that.

24 Q All right.

25 A And Item 15, all feed delivery records, there

09:23AM

1 was a point in time when I did not save all feed
2 delivery records.

3 Q But you produced all the ones you do have?

4 A Yes.

5 Q Okay.

09:23AM

6 A And Item 21, I have on occasion applied
7 herbicides but I don't have any records of any such
8 applications. It's more of a spot spray type
9 application.

10 Q And you've done that for more than one year?

09:24AM

11 A Yes.

12 Q Have you done it over a period of several
13 years?

14 A Yes.

15 Q Are those all on your list then that you made?

09:24AM

16 A Yes.

17 Q Then I'm going to ask you then all other
18 documents that you had in your possession that are
19 requested under the subpoena were produced to you --
20 produced by you through your counsel and then to me;
21 is that correct?

09:24AM

22 A All documents that I had in my possession,
23 yes.

24 Q Okay. Is there any place where documents are
25 stored that are records of your operations that you

09:24AM

1 did not access or review?

2 A No.

3 Q Are they all kept at your home basically?

4 A Yes.

5 Q Okay. Let me ask you this because there was

09:24AM

6 some conversation between counsel that you may not

7 produce all of your settlement sheets and in order

8 to avoid you having to produce a lot of extra

9 documents, did you produce all of those or just

10 selectively produce them as was discussed?

09:25AM

11 A I produced all of those documents.

12 Q You referred to in your deposition of May of

13 '06 to keeping a three-ring binder with records. Do

14 you still use that three-ring binder?

15 A Yes, I do.

09:25AM

16 Q Were all the documents contained within that

17 three-ring binder produced also?

18 A Not all the documents, no.

19 Q What documents were not produced?

20 A The documents that were not produced were fact

09:25AM

21 sheets that were given at educational meetings, but

22 all documents pertaining to actual records to the

23 farm operations were produced.

24 Q All right. So that I'm clear, when you say

25 the educational meetings, are those meetings that

09:26AM

1 you're required by the Oklahoma Department of
2 Agriculture to attend as a poultry growing
3 operation?

4 A Yes.

5 Q And those fact sheets would be ones that were 09:26AM
6 presented to you at those meetings?

7 A Yes.

8 Q Okay. So if we looked at your educational
9 record that ODAFF maintains for you, we would be
10 able to determine what kind of fact sheets you would 09:26AM
11 have had in your possession then; is that correct?

12 A I'm not certain on that.

13 MR. WILLIAMS: Counsel, I don't think
14 there's any problem with producing those if you want
15 them. I don't know that either one of us identified 09:26AM
16 those as responsive.

17 MR. GARREN: I'm not asking that we get
18 those.

19 Q Did you retain all of the fact sheets that you
20 received at any time from any educational meeting 09:27AM
21 that's required by ODAFF, if you know?

22 A I can't say with 100 percent certainty but I
23 would say that a large majority of those, yes.

24 Q Okay. You've also then produced all records
25 that you're required by the Oklahoma Registered 09:27AM

1 Poultry Feeding Act to maintain. Those have all
2 been produced, too; correct?

3 A Yes.

4 Q Do you retain all soil tests that you conduct
5 on your property?

09:27AM

6 A Yes.

7 Q And were those all produced?

8 A Yes, they were.

9 Q All right, and the same for all application
10 records. Did you produce all poultry waste land
11 application records also?

09:27AM

12 A Yes, I did.

13 Q Did anybody assist you in researching, looking
14 for and accumulating the records for this subpoena?

15 A No, they did not.

09:28AM

16 Q Did you meet with any person in advance of
17 this deposition to assist in preparing you for this
18 deposition?

19 A Yes, I did.

20 Q Who was that person or persons?

09:28AM

21 A My counsel.

22 Q That counsel you are referring to is Ken
23 Williams here today?

24 A Yes, it is.

25 Q And when was your meeting or meetings with Mr.

09:28AM

1 it was like a water quality workshop that I attended
2 at -- I believe it was at the University of
3 Arkansas.

4 Q Would you please hold your place on this
5 document and go to Page 612 in this same exhibit and
6 look at the poultry water quality handbook that
7 exists there.

12:54PM

8 A Okay.

9 Q This document at Page 612 indicates it's been
10 printed with permission of the Water Quality
11 Consortium and it has Peterson Farms on it at the
12 bottom; do you see that?

12:55PM

13 A Yes.

14 Q Is that the one Peterson Farms gave you?

15 A I believe so, yes.

12:55PM

16 Q Do you know how and when you obtained it from
17 them?

18 A I would not know. I don't remember.

19 Q Did you read the document that's shown
20 starting at Page 612 in this exhibit?

12:55PM

21 A Not in its entirety, no.

22 Q All right. Let's then go back to the document
23 at Page 492. You said in your testimony that you
24 thought you got one at a water quality seminar.

25 Would the document at Page 492 be that document or a

12:55PM

1 different document?

2 A I believe it would be this document.

3 Q And when did you attend that seminar?

4 A I don't recall.

5 Q Was it while you were working for Peterson? 12:55PM

6 A Yes.

7 MR. WILLIAMS: Object to the form.

8 A Yes.

9 MR. GARREN: He's testified he was a
10 service rep for Peterson, so he was working for 12:56PM
11 Peterson.

12 Q Were you working for Peterson as a service rep
13 when you got this or were you simply a grower when
14 you got this form?

15 A I don't recall exactly, but I believe it was a 12:56PM
16 seminar for service reps from various companies that
17 attended the seminar.

18 Q Do you remember where it was?

19 A I believe it was at the Pauline Whitaker
20 Equine Center at the University of Arkansas. We 12:56PM
21 often had seminars at that location.

22 Q You testified that your first flock of birds
23 came in to you December of '95. When was it you
24 worked as a service rep? You said it was like '93
25 to 2003, did you not? 12:57PM

1 A I believe that's correct, yes.

2 Q So it's possible you had this document at Page
3 492 before you were a grower but only acting as a
4 service rep?

5 A It is possible.

12:57PM

6 Q Okay. I would represent to you that in
7 looking at your document 492, I know that this
8 document was originally published actually in 1994
9 now that I think about it and that the one we see at
10 Page 612 with Peterson's name on it is a second
11 edition and it would not have been published until
12 September of '98. Does that help you in putting it
13 in a time frame when you might have come into
14 possession of either or both of these?

12:57PM

15 A It doesn't really help me --

12:58PM

16 Q That's fair.

17 A -- to be honest with you.

18 Q Back again to the document starting at 492,
19 did you read this document?

20 A Not in its entirety, no.

12:58PM

21 Q All right. When you attended that seminar,
22 would that have been a seminar paid by Peterson
23 Farms; they would have paid the cost for you to
24 attend?

25 MR. HIXON: Object to the form.

12:58PM

1 Feeding Registration Act was put in place?

2 A I don't recall exactly. I want to say 2000.

3 Q Okay. Any other examples of how Peterson

4 Farms helped its growers understand how poultry

5 waste can pollute the environment?

01:03PM

6 MR. HIXON: Object to form.

7 A I do vaguely remember taking copies of the

8 poultry water quality handbook that was mentioned

9 earlier on Page 612 I believe it was.

10 Q The second edition?

01:03PM

11 A The second edition, and hand delivering those

12 to growers that I serviced as a service rep for

13 Peterson.

14 Q Okay. Did you give any instructions upon

15 delivering the water quality handbook to a grower?

01:04PM

16 A Not that I recall.

17 Q So you basically are just acting as a

18 messenger or someone to deliver something; is that

19 correct?

20 A As far as I can remember, yes.

01:04PM

21 Q Do you know whether or not there was a letter

22 attached or instructions for the grower to consider

23 along with the handbook?

24 A None other than the letter that was included

25 in the document.

01:04PM

1 Q At Page 613?

2 A At Page 613, that I recall.

3 Q Okay. Do you recall a time frame in which
4 that might have occurred?

5 A I do not.

01:04PM

6 Q I notice Page 613 is not dated. That's why I
7 was asking. Do you recall delivering to the growers
8 the document which is the first edition that we have
9 a copy of at Page 492?

10 A I do not.

01:05PM

11 MR. BOND: Object to the form.

12 Q You mentioned attending seminars at the
13 University of Arkansas. Did you, sir, as a service
14 rep while working for Peterson Farms participate in
15 receiving updated literature or information from the
16 University of Arkansas regarding poultry growing
17 operations and in particular waste handling methods
18 or practices?

01:05PM

19 MR. WILLIAMS: Object to the form.

20 Q Let me ask you a different form. Did you
21 subscribe to any literature from the University of
22 Arkansas regarding waste handling management or best
23 practices?

01:06PM

24 A No, sir, I did not.

25 Q Did Peterson when you worked as a service rep

01:06PM